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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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7590 10/19/2004
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| EXAMINER |
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STAHL, MICHAEL J

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| ART UNIT | PAPER NUMBER |
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2874

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,345

Applicant(s)

HODGE ET AL.

Examiner

Mike Stahl

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 18-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-39 is/are allowed.
- 6) ☒ Claim(s) 1-7, 12, 18-20, 22, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 8-11, 13, 14, 21, 23 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. <u>9/16/04</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/10/04</u> . | 6) <input type="checkbox"/> Other: _____. |

This office action is in response to the preliminary amendments filed 2/10/04 and 9/17/04, and the telephonic interview held 9/16/04. Claims 1-14 and 18-39 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-7, 12, 18, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kluska et al. (US 5136121).

As to claim 1, Kluska discloses an enclosure (fig. 1) comprising: a housing 11/12; first and second ports in the housing for allowing first and second portions of a distribution cable 13 to enter the housing; and a drop port 21-24 for allowing a drop line 14-17 that services a single endpoint to enter the housing via its own port, wherein in the housing a drop line entering through a drop port can be coupled to a transmission medium of the cable.

As to claim 4, the distribution cable comprises an electrical distribution cable having an electrical transmission medium (col. 1 lines 58-61).

As to claim 5, the distribution cable comprises a telephone distribution cable having a telephone transmission medium (col. 1 lines 6-7).

As to claims 6 and 7, the drop line that enters the housing through the drop can be coupled to the transmission medium of the distribution cable through an optical device or through an optical splitter. It is noted that “can be coupled” indicates a possibility or capability

Art Unit: 2874

of being coupled. It does not have the same meaning as "is coupled". Certainly a user or manufacturer of the Kluska device can couple the drop line to the transmission medium via optical means if so desired.

As to claim 12, the enclosure includes a plurality of drop ports **21-24**.

Claim 18 is satisfied by the Kluska apparatus described above.

As to claim 25, the disclosed terminal blocks are regarded as splitting devices which divide the power of a transmission medium.

Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. (US 5696864).

As to claim 18, Smith discloses an enclosure **10** comprising: a housing having an interior; a first port **80** opening to the interior and sized to allow a distribution cable **18** to enter the housing; and a drop port **54** opening to the interior and sized to allow a drop line **52** that services a single endpoint to enter the housing via its own port. See in particular figs. 1-2 and 7-11, and col. 4 lines 4-12. It is noted that the cables **52** are arranged in pairs, and each pair is associated with its own port **54**. In the illustrated embodiment a respective pair of cables **52** is considered as a single drop line since both cables are required to transmit the signal (col. 3 line 65 – col. 4 line 9).

As to claim 19, the distribution cable **18** comprises an optical fiber distribution cable having at least one optical fiber strand (col. 5 lines 29-32).

Art Unit: 2874

Claims 18-20, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker et al. (US 5828807).

As to claim 18, Tucker discloses an enclosure **100** comprising: a housing having an interior; a first port **191** in the housing sized to allow a distribution cable to enter the housing; and a drop port **122** in the housing sized to allow a drop line (any of **211-214**) that services a single endpoint to enter the housing via its own port. See figs. 5 and 11, and col. 12 lines 2-31. It is noted that although the grommets associated with the drop ports are capable of accommodating multiple drop lines (col. 7 lines 1-10), they are nevertheless sized to allow a drop line to enter via its own port (e.g. in a case where there are fewer subscribers than the capacity of the enclosure).

As to claim 19, the distribution cable which enters port **191** is a fiber distribution cable having at least one fiber strand (col. 8 lines 16-31).

As to claim 20, the ports include removable drop plugs (such as grommets **320/420**) which substantially seal the drop ports.

As to claim 24, the enclosure includes a cover plate **112** removably coupled to the housing, and a sealing member **131** coupled to the cover plate to seal a gap between the cover plate and the housing (fig. 11; col. 12 lines 18-26).

As to claim 25, the enclosure includes a splitting device (power supply **151**) in the housing which is capable of dividing power of a transmission medium (the power cable which enters port **192**). Power supply **151** is regarded as a splitting device since the power going into it is divided among various other units **153, 154, and 156** (col. 7 line 60 – col. 8 line 15).

Claim Rejections - 35 USC § 103

Art Unit: 2874

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 3, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kluska et al. (US 5136121).

As to claims 2, 3, and 19, Kluska does not disclose the recited types of distribution cables. However, it would have been obvious to a person having ordinary skill in the art to use an enclosure based on Kluska's teachings with the recited types of distribution cables or with any other type of commonly known and easily listed distribution cable, since it is widely known in the art that protection of cable or wire connections from environmental elements is beneficial.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tucker et al. (US 5828807).

As to claim 22, Tucker does not specifically disclose that a grommet such as 420 substantially seals the drop port when the drop port is empty. However, since it is clearly beneficial to avoid contamination of the interior space of the enclosure, it would have been obvious to a person of ordinary skill in the art to configure the grommet to seal the drop port even when no drop cables are present.

Allowable Subject Matter

Claims 8-11, 13-14, 21, 23 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27-39 are allowed.

Regarding claims 8-11 and 13-14, Kluska et al. was the only reference applied to base claim 1. Kluska does not disclose or suggest drop plugs which are removable, or open, or closed, as recited in claims 8-10 or 13-14. As to claim 11, Kluska does not disclose or suggest for the drop lines a strain relief device having the recited structure.

As to claim 21, the references applied above to base claim 18 do not teach or suggest a removable drop plug having the recited geometry.

As to claim 23, the applied references do not teach or suggest a strain relief device for the drop line having the recited structure.

Art Unit: 2874

As to claim 26, the applied references fail to teach or suggest including an optical splitter in the housing of the enclosure. It is noted that the Smith et al. reference teaches diverting a branch optical cable 110 out of the enclosure to a separate optical network unit 23, which handles the conversion of signals from optical to electrical format. Therefore it appears that any optical splitter would be located in the housing of ONU 23, not in the same housing of enclosure 10. It is further noted that in the Tucker et al. reference the branch fiber is directly coupled to a receiver in controller unit 153. There is no disclosure or suggestion of any optical splitter.

Regarding claim 27, the references of record do not teach or suggest an enclosure which meets all the recited limitations. It is noted that the Schneider et al. reference (US 5495549) which was applied to claim 27 during prosecution of the parent application (10/045439) is no longer considered applicable to claim 27 in view of the limitations added via the September 17 2004 amendment. Claims 28-39 are allowed by dependence from claim 27.

Conclusion

US 3610810 and US 6721484 are cited on the attached PTO-892 form for being relevant to applicant's disclosure.

Art Unit: 2874

Any inquiry concerning this communication should be directed to Mike Stahl at (571) 272-2360. Official communications which are eligible for submission by facsimile and which pertain to this application may be faxed to (703) 872-9306. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at (571) 272-1626.

MJS

Michael J. Stahl
Patent Examiner
Art Unit 2874

October 18, 2004



Rodney Bovernick
Supervisory Patent Examiner
Technology Center 2800